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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Wayne AUSTIN

Serial No.: 10/512,121 Group No.: 3632

Filed: October 21, 2004 Examiner:

For: A DEVICE FOR, AND METHOD OF, SUPPORTING A GLASS PANEL FOR FORMING A FRAMELESS GLASS PANEL FENCE

Attorney Docket No.: U 015424-9

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Attention: OFFICE OF THE SOLICITOR

PETITION TO MAKE SPECIAL

This is a Petition to Make Special the above application filed before August 25, 2006, pursuant to *MPEP* 708.02 VIII.

Therefore:

(A) Please charge the fee (37 CFR 1.17(h)) to Deposit Account 12-0425;

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box1450. Alexandria,VA 22313-1450

FACSIMILE

☒ transmitted by facsimile to the Patent and Trademark Office to (571) 273-8300

Signature

Date: April 24, 2007

William R. Evans
(type or print name of person certifying)

(B) All the claims by Preliminary Amendment of June 23, 2005, are directed to a single invention or, if the Patent Office determines they are not, the applicant will elect one without traverse;

(C) The applicant submits this statement that a pre-examination search was made by the AU Patent Office as PCT International Search Authority (ISA/AU) in the international stage of the application. This search by a foreign patent office satisfies this requirement, because the claims in the corresponding foreign application are of the same or similar scope as the claims in th US application by the Preliminary Amendment of June 23, 2005;

(D) One copy of each of the references of the Search Report of 12 June 2003 of the ISA/AU, and additional English Abstracts, were filed together with the Search Report with the Information Disclosure Statement of May 12, 2005 as the references deemed most closely related to the subject matter encompassed by the claims;

(E) The applicant attaches as a detailed discussion of the references the Search Report of the ISA/AU copies of a Written Opinion of 28 November 2003 of the AU PCT International Examination Authority (IPEA/AU) and a response thereto of 20 May 2004, such response presenting the claims of the same or similar scope of the Preliminary Amendment, pointing out with the particularity required by 37 CFR 1.111 how the claimed subject matter is patentable over the references, and leading to the IPEA/AU International Preliminary Examination Report of 28 May 2004 finding Novelty, YES, Inventive step, YES, and Industrial applicability, YES, confirming this for such claims.

Respectfully submitted,

William R. Evans
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COPY (B)

PATENT COOPERATION TREATY

From the:
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

SPRUSON & FERGUSON
GPO Box 3898
SYDNEY NSW 2001

PCT

WRITTEN OPINION
(PCT Rule 66)

Date of mailing *(day/month/year)*	28 NOV 2003
Applicant's or agent's file reference: 589040C	REPLY DUE within TWO MONTHS from the above date of mailing

International Application No.	International Filing Date *(day/month/year)*	Priority Date *(day/month/year)*
PCT/AU03/00482	23 April 2003	23 April 2002

International Patent Classification (IPC) or both national classification and IPC
Int. Cl.[7] E04H 17/22

Applicant
INVENTION DEVELOPERS PTY LTD

1. This written opinion is the **first** drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:.

I	[X]	Basis of the opinion
II	[ ]	Priority
III	[ ]	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV	[ ]	Lack of unity of invention
V	[X]	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI	[ ]	Certain documents cited
VII	[ ]	Certain defects in the international application
VIII	[ ]	Certain observations on the international application

3. The FINAL DATE by which the international preliminary examination report must be established according to Rule 69.2 is:
23 August 2004

4. The applicant is hereby invited to reply to this opinion.

When? See the Reply Due date indicated above. However, the Australian Patent Office will not establish the Report before the earlier of (i) a response being filed, or (ii) one month before the Final Date by which the international preliminary examination report must be established. The Report will take into account any response (including amendments) filed before the Report is established. If no response is filed by 1 month before the Final Date, the international preliminary examination report will be established on the basis of this opinion.
Applicants wishing to have the benefit of a further opinion (if needed) before the report is established should ensure that a response is filed at least 3 months before the Final Date by which the international preliminary examination report must be established.

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3.
For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4*bis*.
For an informal communication with the examiner, see Rule 66.6.

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WRITTEN OPINION

International application No.
PCT/AU03/00482

I. Basis of the opinion

1. With regard to the elements of the international application:*

[X] the international application as originally filed.

[ ] the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of

[ ] the claims, pages , as originally filed,
pages , as amended under Article 19,
pages , filed with the demand,
pages , received on with the letter of

[ ] the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of

[ ] the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language which is:

[ ] the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

[ ] the language of publication of the international application (under Rule 48.3(b)).

[ ] the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

[ ] contained in the international application in printed form.

[ ] filed together with the international application in computer readable form.

[ ] furnished subsequently to this Authority in written form.

[ ] furnished subsequently to this Authority in computer readable form.

[ ] The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

[ ] The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. [ ] The amendments have resulted in the cancellation of:

[ ] the description, pages

[ ] the claims, Nos.

[ ] the drawings, sheets/fig.

5. [ ] This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* *Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*

WRITTEN OPINION

International application No.
PCT/AU03/00482

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	9 - 12, 19, 20	YES
	Claims	1 - 8, 11 - 18	NO
Inventive step (IS)	Claims		YES
	Claims	1 - 20	NO
Industrial applicability (IA)	Claims	1 - 20	YES
	Claims		NO

2. Citations and explanations

NOVELTY (N) Claims 1 - 8, 11 - 18:

D1 - JP 8-135258 A
D2 - JP 9-111988 A
D3 - AU 58687/99 (444570) B
D4 - US 4920717 A
D5 - DE 3826393 A
D6 - US 5527054 A

D1 discloses the features of claims 1-7,12,13 and 15-18. Figure 2 of D1 shows an anchor member 5 and a mounting member (unnumbered). The mounting member comprises a screw hole 7 into which anchor member 5 is screwed. The mounting member also comprises a slot in the middle of the mounting member to receive a panel (unnumbered). The anchor member has an elongated portion and a base 13, and the height of the mounting member relative to the anchor is adjustable via screw threads 5 and 7.

D4 discloses the features of claims 1-4,6-8,11,12 and 14-18. Figure 2 of D4 discloses an anchor member comprising an elongated portion 66 and a base 34, and a mounting member 80 and 81. The mounting member first portion receives the anchor member elongated portion. The second portion of the mounting member receives the glass panel within a slot in the second portion and the sides of the slot have holes 96 through which an attachment member (epoxy resin) may pass.

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WRITTEN OPINION

International application No.
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Supplemental Box
(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of Box V

INVENTIVE STEP (IS) Claims 1 - 20:

Claims 1-8, 11-18: As per novelty above.

D3 discloses the features of 1-3,6-12,14 and 15-20 except for the bolts through the side sections of the second portion of the mounting member. Figures 1 and 2 of D3 show an anchor member 3 and a mounting member 6, the mounting member having a first portion 7 and a second portion 5 comprising a slot to hold the glass panel 2. The addition of bolts through the sides of channel member 5 to secure the glass panel 2 to the channel member is not considered to involve an inventive step. I consider that this difference between the claimed invention and the citation constitutes no more than a mere workshop improvement. It is an arrangement that any competent worker in the art would be expected to make directly and without difficulty and by routine steps alone. Therefore the claimed invention does not involve an inventive step.

D1 also does not disclose the bolts through the second portion of the mounting member and the panel, but as for D3, these bolts are not considered inventive. Therefore claims 8-11, 19 and 20 are not inventive in light of D1. Also claim 14 is considered not inventive as non-rigid washers in contact with a glass panel are considered to be common general knowledge.

D4 does not disclose the features of claims 5 and 13, which is the mounting member first portion having a threaded bore for engagement with the anchor member threaded portion. Altering the device of D4 so that the threaded bore is in the mounting portion rather than in the base is not considered to involve an inventive step. I consider that the difference between the claimed invention and the citation constitutes no more than a mere technical equivalent. Both arrangements are well known in the art and it would be clearly obvious to a person skilled in the art that one could be replaced by the other without materially affecting the way the invention worked. Therefore claims 5 and 13 do not involve an inventive step.

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20 May 2004

Our Ref.; 589040C:RDC:FDP
Telephone Contact: Fidel Dela Paz

Dear Madam

Re: International (PCT) Patent Application No. PCT/AU03/00482
Invention Developers Pty Ltd
Title: A Device For, And Method Of, Supporting A Glass Panel For Forming A Frameless Glass Panel Fence

Receipt is acknowledged of the Written Opinion dated 28 November 2003.

The applicant seeks to replace the claims on file with the claims enclosed herewith in duplicate.

In the Written Opinion, the Examiner contends that claims 1 to 8 and 11 to 18 lacks novelty and that claims 1 to 20 lack an inventive step in light of references D1 to D6 listed in the Written Opinion.

Claim 1 has been amended to define the device as being for supporting a glass panel having at least one mounting hole at a bottom portion thereof and that the mounting member second portion has a means for locking the glass panel to the mounting member via the glass panel mounting hole(s).

D1 (JP 8-135258) discloses an assembly for fixing a support. D1 does not disclose a mounting member portion which is adapted to receive a portion of a glass panel and for locking the glass panel thereto via mounting holes of the glass panel.

D2 (JP 9-111988) shows a handrail support assembly. D2 also does not disclose a mounting member portion which is adapted to receive a portion of a glass panel and for locking the glass panel thereto via mounting holes of the glass panel.

D3 (AU 444570) is directed to a device for securing panels to stiffeners on balcony or staircases. The assembly includes vertical stiffeners 3 and securing members 6 which are used to clamp the glass panels to the stiffeners. This reference does not disclose providing mounting holes to the glass panel. It also does not disclose a mounting member portion which can lock the glass panel thereto via the glass panel mounting holes. It would not have been obvious to a skilled person to include mounting holes to the glass panel and mounting member (as in the present invention) as the glass panel of D3 is girdled by extruded sections 5 which are gripped by the securing members 6.

D4 (US 4,920,717) also does not disclose providing at least one mounting hole in the glass panel and locking the glass panel to the mounting member via the glass panel mounting holes. In this

Commissioner of Patents Our Ref: 689040C:RDC:FDP

reference, (See column 7, lines 52 to 62), a structural adhesive such as epoxy is applied to provide bonding between the glass panel and the liner channel 34. The mounting shown in this invention is complex and costly and requires the use of further adhesive, in contrast to the present invention.

D5 (DE 3,826,393) is directed to supporting pillars which support panels. D5 also does not disclose a mounting member portion which is adapted to receive a portion of a glass panel and for locking the glass panel thereto via mounting holes of the glass panel.

D6 (US 5,527,054) is directed to a leg adjustment for fifth-wheel trailer lifting/levelling legs. This reference does not show providing a device for supporting a glass panel as in the present invention. D6 gives no suggestion that it can be used to support glass panels, or that the foot pad 12 and shaft 14 thereof can be partially embedded in the ground for supporting a glass panel, as disclosed in the description of the present application. Any similarity in features between the present invention and the device of D6 can only be arrived at by hindsight.

The present invention as now claimed provides a simple and effective means of supporting a glass panel for forming a frameless glass panel fence.

Favourable reconsideration is requested.

Yours faithfully
SPRUSON&FERGUSON

Ryan D Curnick
Registered Patent Attorney

Claims:

1. A device for supporting a glass panel, the glass panel having at least one mounting hole at a bottom portion thereof, the device comprising:

an anchor member; and

a mounting member having a first portion and a second portion, the first portion being adapted for adjustably mounting the mounting member relative to the anchor member, and the second portion being adapted to receive a portion of the glass panel, the second portion having a means for locking the glass panel to the mounting member via the glass panel mounting hole(s).

2. The device of claim 1 wherein the mounting member locking means includes at least one mounting hole formed in the second portion, wherein in use, an attachment member can be inserted through aligned glass panel and mounting member mounting holes for locking the glass panel to the mounting member.

3. The device of claim 2 wherein the mounting member includes two spaced mounting holes for supporting a glass panel having two spaced mounting holes at a bottom portion thereof.

4. The device of claim 3 wherein the mounting member two mounting holes are arranged to be spaced vertically from each other in use.

5. The device of any one of the preceding claims wherein the second portion is a slot formed in the mounting member,

6 The device of claim 5 when appended to claim 2, 3 or 4 wherein the second portion includes a pair of mounting holes formed on opposite sides of the slot for each glass panel mounting hole.

7. The device of claim 6 wherein the mounting hole(s) in one side of the slot is threaded to receive a threaded shank of an attachment member.

8. The device of claim 7 wherein the mounting hole(s) in the other side of the slot is countersunk to receive a head of the attachment member.

9. The device of any one of claims 5 to 8 wherein the slot has a width greater than the width of the glass panel to be supported.

10. The device of any one of claims 5 to 9 wherein the slot is formed between two side sections of the mounting member which are attached to opposite sides of a middle section of the mounting member.

11. The device of claim 10 wherein the middle section includes a threaded bore for receiving a threaded portion of the anchor member.

12. The device of any one of the preceding claims wherein the anchor member has an elongated portion and a base.

13. The device of claim 12 wherein the mounting member first portion is adapted to receive the anchor member elongated portion for adjustably mounting the mounting member relative to the anchor member.

14. The device of claim 12 or 13 wherein the anchor member elongated portion is threaded.

15 A method for supporting a glass panel to the ground using the device of any one of claims 1 to 14, the glass panel having at least one mounting hole at a bottom portion thereof, the method comprising:

drilling a hole into the ground;

inserting the anchor member into the drilled hole and fixing the anchor member in position;

mounting the mounting member first portion to the anchor member;

placing a portion of the glass panel into the mounting member second portion; and

locking the glass panel to the mounting member via the glass panel mounting hole(s).

16. The method of claim 15, wherein the mounting member locking means includes at least one mounting hole, and wherein the step of locking the glass panel to the mounting member includes inserting an attachment member through the glass panel and mounting member mounting holes to look the glass panel to the mounting member.

17. The method of claim 15 or 16, wherein the step of mounting the mounting member to the anchor member further includes the step of adjusting the position of the mounting member relative to the anchor member.

18. The method of claim 15, 16 or 17, wherein the step of placing the glass panel into the mounting member further includes the step of adjusting the position of the glass panel relative to the mounting member.

19. The method of any one of claims 15 to 18 wherein at least two of the devices are used to support each glass panel.

20. The method of any one of claims 16 to 19 wherein the glass panel includes two vertically spaced mounting holes, the mounting member second portion is a slot formed in the mounting member, and the second portion includes a pair of mounting holes formed on opposite sides of the slot for each glass panel mounting hole,

wherein the step of locking the glass panel to the mounting member includes the step of inserting a respective attachment member through each aligned corresponding holes of the mounting member and the glass panel.

22. A glass panel fence having the support device of any one of claims 1 to 14, and a glass panel having at least one mounting hole at a bottom portion thereof mounted to the device.

23. The glass panel fence of claim 22 having two support devices supporting each glass panel.